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12 **E-filing**

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 SAN FRANCISCO DIVISION

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA *EDL*
SAN FRANCISCO DIVISION

TLC 33 ½ Los Pinos Nicasio, California 94946

| | | | | |
|---------------------------------------|--------------|-------|----------------|---------|
| 15 Technology Licensing Company, Inc. | 16 Plaintiff | 17 v. | 18 Case No. 09 | 19 2729 |
| 20 Haier America Trading, L.L.C. | 21 Defendant | 22 | 23 | 24 |
| 25 | 26 | 27 | 28 | 29 |
| 30 | 31 | 32 | 33 | 34 |

35 Complaint for Patent Infringement
 36 Case No.: _____ Technology Licensing Co v. Haier America Trading, L.L.C.

1 **COMPLAINT FOR PATENT INFRINGEMENT INDUCING PATENT INFRINGEMENT,**
2 **AND CONTRIBUTORY PATENT INFRINGEMENT**

4 Plaintiff, Technology Licensing Company Inc., complains of and for causes of action
5 against Defendant, Haier America Trading, L.L.C., alleges as follows:

7 **Nature of the Case**

8 1. This is an action arising under the Patent Laws and Statutes of the United States in
9 which Plaintiff seeks to recover for patent infringement, and for inducing patent infringement, and
10 for contributory infringement, and for any and all damages and costs flowing therefrom.

13 **Jurisdiction and Venue**

15 2. The Court has exclusive jurisdiction of the patent infringement claim, the inducement
16 of patent infringement claim, and the contributory infringement claim, all asserted in this case
17 pursuant to the Patent Laws and Statutes of the United States (e.g., 35 U.S.C. §§ 271, *et seq.* and §
18 281) including 28 U.S.C. §§ 1331, 1338, 2201-2202. Venue is proper in this district under 28
U.S.C. § 1391.

22 **The Parties**

23 3. Plaintiff, Technology Licensing Company Inc. ("Plaintiff") is a California Corporation
24 with a principal place of business in Nicasio, California.

25 4. Defendant, Haier America Trading, L.L.C ("Defendant") is a New York Limited
26 Liability Corporation having a principal place of business in New York, New York.
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Plaintiff's Patent

5. Plaintiff is the owner of United States No.5,734,862 ("the Patent") which was duly issued on March 31, 1998. The Patent concerns *inter alia* embodiments for a system and method for making and/or viewing DVDs.

COUNT I
(Patent Infringement)

6. This COUNT is instituted against Defendant for infringement (i.e., direct infringement) of the Patent.

7. Plaintiff repeats and realleges the allegations set forth in paragraphs 1-5.

8. On information and belief, Defendant is infringing, or has infringed, the Patent in this Judicial District and elsewhere in the United States by manufacturing and/or selling and/or offering for sale and/or importing and/or using embodiments of the invention of the Patent.

9. On information and belief, at least one embodiment of the invention of the Patent which Defendant is infringing, and/or has infringed, operates, at least in part, in accordance with and/or complies, at least in part, with technical standards generally adhered to by the DVD Player Industry.

10. On information and belief, at least one embodiment of the invention of the Patent which Defendant is infringing, or has infringed, operates at least in part in accordance with and/or complies at least in part with "DVD Specifications for read-Only Disc, Part 3 VIDEO

1 SPECIFICATIONS," Version 1.13, March 2002, published by DVD Format/Logo Licensing
2 Corporation.

3 11. Plaintiff has suffered damages by reason of Defendant's infringement of the Patent,
4 and will suffer additional damages unless Defendant is enjoined by the Court from continuing to
5 infringe the Patent.

6 12. On information and belief, Defendant's infringement of the Patent has been willful
7 and deliberate, thus warranting an increase of the damages recoverable by Plaintiff under the
8 provisions of 35 U.S.C. § 284, up to three times the amount of actual damages sustained by
9 Plaintiff, and also making this an exceptional case within the meaning of 35 U.S.C. § 285.

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14 **COUNT II**

15 **(Actively Inducing Patent Infringement)**

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17 13. This COUNT is instituted against Defendant for actively inducing patent infringement.

18 14. Plaintiff repeats and realleges the allegations set forth in paragraphs 1-5.

19 15. On information and belief, Defendant is manufacturing and/or selling and/or using
20 and/or offering for sale and/or importing to persons in this Judicial District and elsewhere in the
21 United States embodiments of the invention of the Patent.

22
23 16. On information and belief, when Defendant makes and sells and/or offers to sell to
24 persons, embodiments of the invention of the Patent in this Judicial District and elsewhere in the
25 United States, the sales are accompanied with documents, written instructions, and/or other
26 instructions, from Defendant on how to operate embodiments of the invention of the Patent.

1 17. On information and belief, when Defendant accompanies its sales and/or offers to sell
2 to persons with documents, written instructions, and/or other instructions, on how to operate
3 embodiments of the invention of the Patent, Defendant was and is aware that such documents,
4 written instructions, and/or other instructions, are inducing the persons to infringe the claims of
5 the Patent. On further information and belief, Defendant thereby has actively induced and/or is
6 actively inducing the persons in this Judicial District and elsewhere in the United States to infringe
7 the claims of the Patent.

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10 18. On information and belief, at least one embodiment of the invention of the Patent
11 which Defendant is actively inducing infringement, and/or has actively induced infringement,
12 operates, at least in part, in accordance with and/or complies, at least in part, with technical
13 standards generally adhered to by the DVD Player Industry.

14
15 19. On information and belief, at least one embodiment of the invention of the Patent
16 which Defendant is actively inducing infringement, and/or has actively induced infringement,
17 operates, at least in part, in accordance with and/or complies at least in part with "DVD
18 Specifications for read-Only Disc, Part 3 VIDEO SPECIFICATIONS," Version 1.13, March
19 2002, published by DVD Format/Logo Licensing Corporation.

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21 20. Plaintiff has suffered damages by reason of Defendant's active inducement of
22 infringement of the Patent, and will suffer additional damages unless Defendant is enjoined by the
23 Court from continuing to actively induce the infringement of the Patent.

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25 21. On information and belief, Defendant's active inducement of the infringement of the
26 Patent has been willful and deliberate, thus warranting an increase of the damages recoverable by
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1 Plaintiff under the provisions of 35 U.S.C. § 284, up to three times the amount of actual damages
2 sustained by Plaintiff, and also making this an exceptional case within the meaning of 35 U.S.C. §
3 285.
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6 **COUNT III**

7 **(Contributory Infringement)**

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9 22. This COUNT is instituted against Defendant for contributory infringement the Patent.

10 23. Plaintiff repeats and realleges the allegations set forth in paragraphs 1-5.

11 24. On information and belief, the embodiments of the invention made and sold by
12 Defendant to persons in this Judicial District and elsewhere in the United States constitute a
13 material part of embodiments of the invention of the Patent. On further information and belief,
14 Defendant knew and knows that such manufacture and sale of embodiments of the invention were
15 and are especially made or especially adapted for use in infringement of the claims of the Patent,
16 and that the embodiments of the invention were and are not staple articles or commodities of
17 commerce suitable for substantial non-infringing use. Accordingly, on further information and
18 belief Defendant has contributory infringed, and/or is contributory infringing, in this Judicial
19 District and elsewhere in the United States the claims of the Patent.
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22 25. On information and belief, at least one embodiment of the invention of the Patent
23 which Defendant is contributory infringing, and/or has contributory infringed, operates, at least in
24 part, in accordance with and/or complies, at least in part, with technical standards generally
25 adhered to by the DVD Player Industry.
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26. On information and belief, at least one embodiment of the invention of the Patent which Defendant is contributory infringing, and/or has contributory infringed, operates, at least in part, in accordance with and/or complies, at least in part, with "DVD Specifications for read-Only Disc, Part 3 VIDEO SPECIFICATIONS," Version 1.13, March 2002, published by DVD Format/Logo Licensing Corporation.

27. Plaintiff has suffered damages by reason of Defendant's contributory infringement of the Patent, and will suffer additional damages unless Defendant is enjoined by the Court from continuing contributory infringement of the Patent.

28. On information and belief, Defendant's contributory infringement of the Patent has been willful and deliberate, thus warranting an increase of the damages recoverable by Plaintiff under the provisions of 35 U.S.C. § 284, up to three times the amount of actual damages sustained by Plaintiff, and also making this an exceptional case within the meaning of 35 U.S.C. § 285.

RELIEF

WHEREFOR PLAINTIFF PRAYS:

(a) For decree and judgment against Defendant and all in privity with Defendant that the Patent is valid and enforceable;

(b) For decree and judgment against Defendant and all in privity with Defendant, that the Patent is, and has been, infringed by Defendant and that Defendant is liable as a patent infringer;

(c) For decree and judgment against Defendant and all in privity with Defendant, that the Patent is, and has been, infringed by active inducement of infringement by Defendant and that Defendant is liable as an active inducer of infringement;

(d) For decree and judgment against Defendant and all in privity with Defendant, that the Patent is, and has been, contributory infringed by Defendant and that Defendant is liable as a contributory infringer;

(e) For an accounting for, and an assignment of, an award of profits derived by Defendant and damages suffered by Plaintiff in consequence of the patent infringement, the active inducement of patent infringement, and the contributory infringement, of the Patent:

(f) For a decree and judgment against Defendant trebling the profits derived by Defendant and damages suffered by Plaintiff pursuant to statute (e.g., 35 U.S.C. § 284);

(g) For an injunction permanently enjoining Defendant, its officers, agents, servants, employees, attorneys and all those in active concert, participation or privity with Defendant from further infringement, and/or active inducement and/or contributory infringement , in any form what ever, of the Patent:

(h) For the costs of this suit, reasonable attorney's fees as provided by statute (e.g., 35 U.S.C. § 285), and an assessment of interest and cost against the Defendant;

(i) For prejudgment interest at the maximum rate allowed by law;

(j) For post judgment interest at the maximum rate allowed by law, from the date of the judgment until paid; and

(k) For such other and further relief which should appear just and equitable to this Court.

DEMAND FOR JURY TRIAL

In accordance with Civil Local Rule No. 3-6, Plaintiff requests for a trial by jury.

Respectfully submitted,

John W. Carpenter, Esq. (Bar No. 221708)

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